

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ALBERT LOMONACO, Individually,
FRANCA LOMONACO, his wife,

Plaintiffs,

DECISION AND ORDER

06-CV-6517L

v.

MERCK & CO., INC., et al.,

Defendants.

On October 18, 2006, Merck removed this negligence and product liability action from New York State Supreme Court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

Merck has filed a motion to stay the action (Dkt. #4) pending the issuance of a conditional order by the Judicial Panel on Multidistrict Litigation (“JPML”) transferring the case as a “tag-along” action to *In re Vioxx Marketing, Sales Practices and Products Liability Litigation*, MDL No. 1657, an MDL action that has been established in the Eastern District of Louisiana.

This Court has held in other cases concerning Vioxx that a stay was warranted pending a transfer decision by the JPML in order to conserve judicial resources, to avoid duplicative litigation, and to prevent hardship and inequity to Merck, and that plaintiffs would suffer no undue prejudice. See e.g., *Reid v. Merck & Co., Inc.*, No. 05-CV-6621L, slip op. (W.D.N.Y. Mar. 1, 2006); *North v. Merck & Co., Inc.*, No. 05-CV-6475L, 2005 WL 2921638 (W.D.N.Y. Nov. 4, 2005); *Krieger v. Merck & Co., Inc.*, No. 05-CV-6338L, 2005 WL 2921640 (W.D.N.Y. Nov. 4, 2005).

For these same reasons, Merck's pending motion to stay in this case (Dkt. #4) is
GRANTED.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
November 14, 2006.